

IC 15-2.1-14

Chapter 14. Livestock Dealers

IC 15-2.1-14-1

Applicability of chapter

Sec. 1. A provision of this chapter may not be construed as being applicable to any of the following:

- (1) The purchase of livestock by an individual for the individual's own use other than resale on the livestock market.
- (2) The distribution of livestock in connection with programs dedicated to improvement of breeding practices or experimental procedures in which the ownership of such livestock remains vested, in whole or in part, in the distributor or breeder;
- (3) The purchase or sale of livestock by a producer or farmer that buys or sells livestock in connection with a business of raising, feeding, grazing, or breeding livestock as a part of a farming enterprise and does not follow a definite or routine pattern of disposing of acquired livestock through channels of trade in less than sixty (60) days from the date of acquisition as part of a farming enterprise as distinguished from that of a dealer or trader.
- (4) The purchase of livestock by slaughtering establishments, meat processors, restaurants, grocery stores, meat markets, and similar enterprises when such livestock is purchased solely for the purpose of being processed into meat products for use or sale in connection with the business enterprise in which they are engaged if the total number of head of livestock purchased for such purposes does not exceed twenty (20) head in any one (1) week.

As added by Acts 1976, P.L.59, SEC.1. Amended by Acts 1977, P.L.166, SEC.30; P.L.165-1985, SEC.10; P.L.124-2001, SEC.92.

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License; requirement

Sec. 2. A person, except as specifically exempted in this chapter, may not act as a dealer in livestock in Indiana without first obtaining a license in accordance with the provisions of this chapter. A person may not continue to deal in livestock after a license has expired or has been suspended or revoked.

As added by Acts 1976, P.L.59, SEC.1. Amended by Acts 1977, P.L.166, SEC.31; P.L.165-1985, SEC.11; P.L.124-2001, SEC.93.

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Classifications determined by the board

Sec. 3. Classifications of dealers required to be licensed under this chapter shall be determined by the board according to the nature of the particular enterprise in which each dealer is engaged. The determinations, with respect to classifications, must be consistent with the definitions set forth in this article and must be predicated upon the facts made available from the application for license, and

any supporting papers or any inquiry or investigation made in conjunction with the application.

As added by Acts 1976, P.L.59, SEC.1. Amended by P.L.124-2001, SEC.94.

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Classifications

Sec. 4. (a) Classifications under which licenses are issued are as follows:

(1) A market facility dealer license issued to livestock auction barns, stockyards, packers, or concentration points.

(2) An individual dealer license issued to individual dealers and market agencies not operating a market facility.

(b) Separate licenses are required for each location at which stockyards, packing plants, market agencies, and livestock auction barns are operated. More than one (1) license may not be required of individual dealers other than those operating as market agencies at different locations.

(c) A license issued under this chapter continues in effect until the licensee ceases operating as a livestock dealer in Indiana or the board revokes the license. The board may adopt rules to implement this chapter, including the following:

(1) Procedures for issuing, suspending, revoking, and updating licenses.

(2) Requiring annual or other regular reports from licensees for the purpose of:

(A) determining the required amount of bond coverage under this chapter or the current status of agents or other personnel acting under the license; or

(B) updating other information used in administering the requirements of this chapter.

As added by Acts 1976, P.L.59, SEC.1. Amended by P.L.165-1985, SEC.12; P.L.124-2001, SEC.95.

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Dealers and agents

Sec. 5. (a) Subject to subsection (b), a livestock dealer may designate persons as the dealer's agents subject to those liabilities that are ordinarily attached under a contract of agency. An agent may deal in livestock for the principal under the principal's livestock dealer license. An agent dealing in livestock may deal only as an agent for the principal unless the agent has obtained a separate license under this chapter.

(b) A livestock dealer may not designate an individual as an agent if the individual's dealer's license was suspended or revoked in any state or by the United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration during the two (2) years preceding the proposed designation.

As added by Acts 1976, P.L.59, SEC.1. Amended by Acts 1977, P.L.166, SEC.32; P.L.165-1985, SEC.13; P.L.95-1992, SEC.7;

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Bond

Sec. 6. (a) Before engaging or continuing in business as a livestock dealer, a person must execute and maintain a bond or bond equivalent meeting the requirements of this section.

(b) The form of the bond or bond equivalent shall be prescribed by the board and must meet the following minimum requirements:

(1) The instrument must be payable to the state of Indiana, as obligee, for any person who may be damaged as a result of a breach of the conditions of the instrument.

(2) The terms of the instrument must secure the performance of the licensee's obligations under this chapter. The instrument must specifically provide that the dealer will pay all legal claims which may accrue in favor of any seller of livestock in this state.

(3) The surety on any livestock dealer bond or bond equivalent shall be a surety company authorized to do business within Indiana.

(4) The bond or bond equivalent is considered to be continuous unless otherwise specified. The instrument must contain a provision requiring that, before terminating the instrument, the terminating party must serve to the board either:

(A) written notice of termination at least thirty (30) days before the effective date of the termination; or

(B) notice of a valid replacement bond or bond equivalent that provides continuous coverage.

(c) The livestock dealer bond or bond equivalent required under this section must be an amount that is not less than the next highest multiple of five thousand dollars (\$5,000) above the product of the following equation:

Divide the dollar amount of livestock transactions conducted by the license applicant during the preceding twelve (12) months, or in that part of the year in which the applicant did business, by the number of days on which business was conducted.

(d) The following apply to the equation set forth in subsection (c):

(1) The number of days on which business was conducted in a year may not exceed one hundred thirty (130).

(2) The amount of the bond or bond equivalent may not be less than ten thousand dollars (\$10,000) and when the requirements exceed fifty thousand dollars (\$50,000) under the calculations as specified in subsection (c), the amount of the instrument need not exceed fifty thousand dollars (\$50,000) plus ten percent (10%) of the excess raised to the next multiple of five thousand dollars (\$5,000).

(e) Whenever there has been a change in the gross amount of business transacted during a twelve (12) month period that would warrant an increase in the amount of bond or bond equivalent coverage required under this chapter, the dealer shall have the bond

or bond equivalent adjusted accordingly to meet the requirements of this chapter. If the gross amount of business changes so as to warrant a decrease in the amount of bond or bond equivalent required under this chapter, the dealer may have the bond or bond equivalent adjusted accordingly.

(f) A blanket bond or bond equivalent, based upon the gross amount of business transacted on an annual basis for each enterprise operated under the same ownership, may be furnished by licensees instead of individual instruments for each enterprise operated.

(g) If a licensee under this chapter has a valid bond or bond equivalent on file with the United States Department of Agriculture, Grain Inspection and Packers and Stockyards Administration, and the bond or bond equivalent is an adequate amount and conditioned upon terms that provide at least as much protection to sellers of livestock as a state bond under this chapter, further coverage by bond or bond equivalent under this chapter is not required.

(h) A packer, other than those operating stockyards in this state, may not be required to furnish security under this section if no bond or bond equivalent is required of the packers under the United States Packers and Stock Yards Act of 1921 (7 U.S.C.181-229).

As added by Acts 1976, P.L.59, SEC.1. Amended by Acts 1977, P.L.166, SEC.33; P.L.165-1985, SEC.14; P.L.95-1992, SEC.8; P.L.124-2001, SEC.97.

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Scales

Sec. 7. (a) All scales used by any dealer licensed under this chapter shall be subject to inspection and testing by a scale inspector who may be any weights and measures inspector appointed by the state department of health. All such scales shall be subject to the applicable requirements of the code of specifications, tolerances, and regulations for scales as adopted by the state department of health.

(b) If, after proper inspection and testing, a scale fails to meet the applicable requirements of subsection (a) of this section, the scale inspector shall have the right and power to condemn such scale and to prevent its further use until it has been brought into conformance with these requirements.

(c) Any dealer licensed under this chapter, after a hearing has been had in accordance with this chapter, shall have the dealer's license revoked if the finding at such hearing discloses such dealer to have been guilty of fraudulent, deceptive, or dishonest practices in the weighing of livestock.

As added by Acts 1976, P.L.59, SEC.1. Amended by P.L.2-1992, SEC.207; P.L.124-2001, SEC.98.

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Records

Sec. 8. Records. Every dealer required to be licensed under this chapter shall keep such records, accounts, and memoranda as shall fully and correctly disclose all purchases, sales or transfers involving

livestock transactions consummated in connection with his business. The records pertaining to such business shall also disclose the true ownership of such business by stockholders or otherwise. In the event the board finds that the accounts, records, memoranda and true ownership do not fully disclose all transactions involved in his business, the board may prescribe the manner in which such records shall be kept.

As added by Acts 1976, P.L.59, SEC.1.

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Penalties; use of condemned scales

Sec. 9. A person who knowingly or intentionally allows a scale to be used in business transactions involving the purchase, sale, or exchange of livestock after the scale has been condemned and before it has been repaired to the satisfaction of the scale inspector, commits a Class D felony, and in addition to criminal penalties may be subject to a civil penalty of fifty dollars (\$50) for each day the defective scale is used. In the event a civil penalty so assessed is not paid, the prosecuting attorney of the judicial circuit in which the proceeding was brought may bring an action in the name of the state to enforce the collection of same, and any civil penalty when collected shall be turned over to the livestock licensing division for deposit in the state general fund.

As added by Acts 1976, P.L.59, SEC.1. Amended by Acts 1978, P.L.2, SEC.1501; P.L.165-1985, SEC.15; P.L.124-2001, SEC.99.